

HOUSE BILL REPORT

HB 1854

As Reported by House Committee On:

Early Learning & Children's Services

Appropriations

Title: An act relating to background check requirements for the department of social and health services and the department of early learning.

Brief Description: Revising background check requirements for the department of social and health services and the department of early learning.

Sponsors: Representatives Dickerson, Darneille, Roberts, Appleton, Kenney and Hurst; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Early Learning & Children's Services: 2/13/07, 2/23/07 [DPS];

Appropriations: 3/3/07 [DPS(ELCS)].

Brief Summary of Substitute Bill

- Consolidates background check processes for employees of the Department of Social and Health Services (DSHS) and their contracted service providers.
- Requires fingerprint background checks on all foster and adoptive parents and on kinship and kinship-like care givers.
- Directs the DSHS to adopt rules related to background checks.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kagi, Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Appleton, Pettigrew and Roberts.

Minority Report: Without recommendation. Signed by 1 member: Representative Hinkle.

Staff: Sydney Forrester (786-7120).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

In 2004, the Legislature created the Joint Task Force on Criminal Background Check Processes (Task Force) to review and make recommendations regarding improvements to the state's criminal background check processes. The Task Force was extended through December 2006. The Task Force reviewed multiple laws governing the background check processes used by the Department of Social and Health Services (DSHS).

Fourteen different state laws address the background check requirements for the DSHS employees and contracted service providers. Within these statutes are different program-specific rules, varying standards for denial of unsupervised access for vulnerable adults and children, and different recheck requirements.

In October 2006, the DSHS presented to the Task Force its proposal for the consolidation into one chapter of the various background check laws. This proposal also incorporated requirements for fingerprint-based background checks required by recently enacted federal law known as the Adam Walsh Act. After stakeholder input, the DSHS proposal was introduced as department-request legislation.

Summary of Substitute Bill:

The 14 separate background check statutes affecting the DSHS employees and programs are consolidated into one chapter under the authority of the Secretary of the DSHS. The DSHS is directed to adopt rules relating to:

- (1) specific procedures and actions when disqualifying background information is provided;
- (2) policies to govern the release of background information;
- (3) in-home care services and permanent disqualifying crimes;
- (4) current and prospective employees in department-covered positions;
- (5) financial responsibility for paying fees relating to the fingerprinting process;
- (6) requirements for subsequent and additional background check; and
- (7) disqualifying crimes and negative actions and the placement of children with relatives.

A single list of disqualifying crimes and negative actions and a list of potentially disqualifying crimes related to unsupervised access to children and vulnerable persons is applied to all the DSHS entities except kinship caregivers. Employees of the DSHS and their contracted service providers are held to the same background check standards.

The DSHS is directed to conduct fingerprint background checks for all persons seeking to be foster parents, adoptive parents, kinship and kinship-like caregivers as required by the federal Adam Walsh Act.

The Department of Early Learning (DEL) is granted express authority necessary to conduct fingerprint background checks for its employees, licensing of child care centers and homes, and approval of providers under the Working Connections Child Care program.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following revisions to the original bill:

- (1) makes technical corrections to the definitions section to remove redundancies;
- (2) revises the effective date so that only the sections of the bill required by the federal Adam Walsh Act take effect July 1, 2007, while the remainder of the bill takes effect October 1, 2007;
- (3) clarifies the process for and payment of costs related to the exchange of information between the DSHS and licensed in-home care service providers regarding findings of abuse and neglect of vulnerable adults and children for the purpose of the licensed providers conducting background checks on their own employees;
- (4) specifies that the exchange of information regarding findings of abuse and neglect of vulnerable adults and children is limited and that substantive information regarding the nature of the findings may not be disclosed;
- (5) clarifies the process for payment of costs and fees related to background checks or finger-print background checks through the Washington State Patrol or the Federal Bureau of Investigation; and
- (6) grants the DSHS rule-making authority to implement the exchange of information with in-home care service providers.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect October 1, 2007, except sections 9 through 11, relating to compliance with the federal Adam Walsh Act, which contains an emergency clause and takes effect July 1, 2008.

Staff Summary of Public Testimony:

(In support of original bill) This bill brings together in one chapter all relevant information and processes for background checks. The bill represents three years of work the Department of Social and Health Services (DSHS) has done with the Joint Task Force on criminal background checks. It consolidates and makes consistent the background check processes for the DSHS employees and those entities licensed by the DSHS. Background checks are about protection and safety. Children and vulnerable adults deserve the same level of protection. This bill creates a single standard for disqualifying crimes, with one exception and that is in regard to relative or kinship placements.

The fiscal notes related to the federal requirement that all foster and adoptive parents undergo a fingerprint background check. We have not always done this if the person has lived in Washington for more than three years. We also are now required to check the child abuse registry of all states the person has lived in for the previous five years. We also now have the

ability to look at the criminal index when we are investigating allegations of child abuse and neglect.

This bill does not change the authority of the Department of Early Learning (DEL). It grants the DEL rule-making authority and clarifies the Washington State Patrol statutes with regard to the DEL and the DSHS licensing.

(With concerns on original bill) There is a huge shortage of chemical dependency professionals and there is a segment of this bill which would disqualify some counselors because of a past drug-related crime. Coordinators of programs for the developmentally disabled also may have some concerns.

We would suggest a change from "may" to "shall" where the DSHS is authorized to share information with licensed home health service providers. These licensed providers would like to be able to access information in the DSHS background check unit when checking the background of persons we employ.

(Opposed) None.

Persons Testifying: (In support of original bill) Representative Dickerson, prime sponsor; Jone Bosworth, Department of Early Learning; and Robin Arnold-Williams, Department of Social and Health Services.

(With concerns on original bill) Leslie Emerick, Home Care Association of Washington; and Jean Wessman, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Early Learning & Children's Services be substituted therefor and the substitute bill do pass. Signed by 32 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Minority Report: Without recommendation. Signed by 2 members: Representatives Alexander, Ranking Minority Member and Chandler.

Staff: Amy Skei (786-7140).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Children's Services:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect October 1, 2007, except sections 9 through 11, relating to compliance with the federal Adam Walsh Act, which contains an emergency clause and takes effect July 1, 2007.

Staff Summary of Public Testimony:

(In support) The fiscal impact of Substitute House Bill 1854 is directly connected to implementation of the federal requirements of the Adam Walsh bill. The costs identified in the fiscal note are included in the Governor's budget recommendation to the Legislature. Passing this bill would allow us to implement the federal requirements.

(Opposed) None.

Persons Testifying: Stan Marshburn, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.